



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 8, 1998

Ms. Mary Keller
Senior Associate Commissioner
Legal and Compliance Division
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR98-1605

Dear Ms. Keller:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116426.

The Texas Department of Insurance (the "department") received a request for information about the department's decision to seek to disapprove an automobile insurance rate filing. You assert that the requested information is protected from disclosure under section 552.103 of the Government Code. To show that section 552.103(a) is applicable, a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to the litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. You submitted to this office a copy of a petition showing that the department is a party to pending litigation. We have reviewed the documents at issue and conclude they are related to the pending litigation. The department has therefore shown the applicability of section 552.103 to these records.¹ We note, however, that once information has been obtained by all parties to the litigation, no section 552.103(a) interest generally exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). Thus, you may withhold the records that the opposing party to the anticipated litigation has not seen or had access to.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue

¹As the submitted records may be withheld from disclosure under section 552.103, we need not address your alternative argument concerning a document for which you asserted both section 552.103 and section 552.111.

²The applicability of section 552.103(a) also ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 116426

Enclosures: Submitted documents

cc: Mr. Jay Thompson
Clark, Thomas & Winter
P.O. Box 1148
Austin, Texas 78767
(w/o enclosures)